IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20644 of 2004

Between:

Kyasa Ramesh, S/o.Rajasekharam,
R/o.13-41, Shivajingar, Husnabad, Karimnagar Dist.

..... PETITIONER

AND

1 The Commissioner & Inspector General Chief Controlling Revenue Authority, Hyderabad.
2 The District Registrar, Karimnagar.
3 The Asst. District Registrar, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Mandamus declaring the institution of prosecution by filing C.C. No.132/04 on the file of Magistrate Judicial First Class, Husnabad against the petitioner invoking the provisions of Indian stamp Act 1899 and Indian Registration Act 1908 without causing any proper enquiry as required under sec.41(A) of Indian stamp Act and without determining the stamp duty payable by the petitioner in respect of the document No.478/97 as illegal, arbitrary and contrary to the provisions of Indian stamp Act 1899 and also Indian Registration Act, 1908 and pass.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

Counsel for the Respondents: GP FOR REVENUE

The Court, at the stage of admission, made the following :

ORDER:

Proceedings initiated under Section 41-A of the Indian Stamp Act, 1899 (for short "the Act"), will not debar the initiation of prosecution against any person, who has committed an offence against the Act in respect of an instrument. But, such prosecution shall not be instituted in case of any instrument in respect of which such penalty has been paid, unless it appears to the Collector that the offence is committed with an intention to evade the payment of proper stamp duty.

It is submitted by the learned counsel for the petitioner that the prosecution instituted against the petitioner without conducting any enquiry and without passing any final orders, as such, is illegal and arbitrary. It is further submitted that the petitioner is ready to compound the offence committed.

If the petitioner agrees for compounding the offence, it is needless to say that the Chief Controlling Revenue Authority or any Officer generally, as specified in the Act, is empowered to stay the prosecution under Sub-section (2) of Section 70 of the Act.

In view of the same, I do not see any grounds to stay the prosecution and the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

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10-11-2004

Note:Issue C.C. in one week

(B/o)

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To

1 The Commissioner & Inspector General Chief Controlling Revenue Authority, Hyderabad.
2 The District Registrar, Karimnagar.
3 The Asst. District Registrar, Karimnagar.

4 2 CCs to the G.P. for Revenue, High Court Buildings, High Court of A.P.,

Hyderabad (OUT).

5 2 CD copies.